



APR 18 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
[www.uspto.gov](http://www.uspto.gov)

#2

William M. Lee, Jr.  
Lee, Mann, Smith, McWilliams, Sweeney & Ohlson  
P.O. Box 2786  
Chicago, IL 60690-2786

In re Application of  
RUSHBROOKE, et al.  
U.S. Application No.: 10/018,387  
PCT No.: PCT/GB00/01576  
Int. Filing Date: 20 April 2000  
Priority Date: 26 June 1999  
Attorney's Docket No.: 602-1551  
For: MICROPLATE READER

COMMUNICATION

This file is before the PCT Legal Office for issues arising under 35 U.S.C. 371.

### BACKGROUND

On 20 April 2000, applicant filed international application PCT/GB00/01576, which claimed priority of an earlier application filed 26 June 1999. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 04 January 2001. A Demand for international preliminary examination, in which the United States was elected, was filed on 15 January 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 December 2001.

On 13 December 2001, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First preliminary amendment; an Information Disclosure Statement and an executed combined declaration and power of attorney.

### COMMUNICATION

The combined declaration and power of attorney filed on 13 December 2001 does not comply with 37 CFR 1.497 (a)-(b). Specifically, the first named inventor, John Gordan RUSHBROOKE, has not execute the filed declaration. The declaration is instead executed by Claire HOOPER, presumably acting under the accompanying "Limited Power of Attorney for Business." The only circumstances in which the lack of execution of the declaration by an inventor is excused are death, incapacitation or refusal. (see 37 CFR 1.42 , 37 CFR 1.43 and 37 CFR 1.47 respectively) None of these circumstances exist in the present application. As such, the combined declaration and power of attorney filed 13 December 2001 cannot be deemed to be in compliance. Applicant must file a declaration in compliance with 37 CFR 1.497 (a)-(b) executed

by Mr. RUSHBROOKE or should circumstances dictate, file one of the petitions detailed above accompanied by a proper evidentiary showing.

**CONCLUSION**

Applicant is hereby afforded **TWO MONTHS** from the mail date of this communication to furnish the proper reply as indicated above. Failure to file the reply within the time period provided will result in abandonment. Extensions of time may be obtained under 37 CFR 1.136(a).

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



Richard Cole  
Legal Examiner  
PCT Legal Office



Derek A. Putonen  
Petitions Attorney  
PCT Legal Office  
Tel: (703) 305-0130  
Fax: (703) 308-6459